

TENANTS OF 500 23<sup>RD</sup> STREET, N.W. v. D.C. RENTAL HOUSING COMMISSION, 617 A.2<sup>ND</sup> 486 (1992)

Court: D.C. Court of Appeals, opinion by Farrell, J.

Judicial History: Tenants petitioned for review of decision of Rental Housing Commission ordering rent ceiling adjustments for capital improvements. The Court of Appeals affirmed. Housing provider then filed motion for award of attorney fees for services during judicial review.

Facts: Intervenor Columbia Plaza Limited Partnership, a “housing provider” under the Rental Housing Act of 1985, filed several capital improvement petitions before the Rent Administrator. A small group of tenants of the property contested these petitions. Initially, the Rent Administrator dismissed these petitions on procedural grounds. On appeal to the Commission, that decision was reversed and the petitions were remanded for consideration on the merits. After a full hearing, the Rent Administrator again dismissed the petitions. The housing provider appealed and the Commission reversed the dismissal, ordering rent ceiling adjustments.

Holding: The Court of Appeals held that:

- 1.) attorney fees may be assessed in favor of prevailing provider when litigation of tenants is frivolous, unreasonable, or without foundation, or is continued after clearly becoming so, and;
- 2.) prevailing provider’s request for attorney’s fees may be premised on tenants’ individual claims or issues that are frivolous, unreasonable, or groundless.

Reasoning: Attorney fees may be assessed in favor of prevailing housing provider when litigation of tenants is frivolous, unreasonable, or without foundation, or is continued after clearly becoming so, even though tenants do not bring litigation in subjective bad faith.

Decision: Attorney fees ordered, and petition for rehearing en banc and filed statement.